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13 Attorneys for Defendant Intuitive Surgical, Inc.

14
UNITED STATES DISTRICT COURT
 15
NORTHERN DISTRICT OF CALIFORNIA
 16
SAN FRANCISCO DIVISION

17 SURGICAL INSTRUMENT SERVICE
 COMPANY, INC.,

Case No. 3:21-cv-03496-AMO

18 Plaintiff,

v.

19
 20 INTUITIVE SURGICAL, INC.,
 21 Defendant.

**DECLARATION OF PAUL D.
 BRACHMAN IN SUPPORT OF
 DEFENDANT'S TRIAL BRIEF**

22
 23 The Honorable Araceli Martínez-Olguín

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1 I, PAUL D. BRACHMAN, declare as follows:

2 1. I am an attorney licensed to practice in New York and the District of Columbia,
3 and am admitted *pro hac vice* to practice before this Court. I am a partner with the law firm of
4 Paul, Weiss, Rifkind, Wharton & Garrison LLP (“Paul, Weiss”), counsel for Intuitive Surgical,
5 Inc. (“Intuitive”) in this matter. I have personal knowledge of the facts set forth herein, and if
6 called to testify, I could and would testify competently hereto.

7 2. Attached to this declaration as **Exhibit 1** is a true and correct copy of a Master
8 Sales, License, and Service Agreement between Intuitive Surgical and Northwestern Memorial
9 Healthcare dated December 16, 2019 and produced at Intuitive-01862315-29.

10 3. Attached to this declaration as **Exhibit 2** is a true and correct copy of a letter
11 dated August 28, 2018 and produced at Restore-00086086-92.

12 4. Attached to this declaration as **Exhibit 3** is a true and correct copy of a letter
13 dated November 15, 2018 and produced at Intuitive-00478439-44.

14 5. Attached to this declaration as **Exhibit 4** is a true and correct copy of a letter
15 dated February 12, 2019 and produced at Restore-00025577-84.

16 6. Attached to this declaration as **Exhibit 5** is a true and correct copy of a letter
17 dated April 16, 2019 and produced at REBOTIX145274-79.

18 7. Attached to this declaration as **Exhibit 6** is a true and correct copy of the “Da
19 Vinci Instruments” webpage on the Intuitive website. The webpage is available at
20 <https://www.intuitive.com/en-us/products-and-services/da-vinci/instruments>.

21 8. Attached to this declaration as **Exhibit 7** is a true and correct copy of the Final
22 Pretrial Order in *Restore Robotics, LLC v. Intuitive Surgical, Inc.*, No. 19-cv-00055 (N.D. Fla.),
23 Dkt. 223, dated January 17, 2023.

24 9. Attached to this declaration as **Exhibit 8** is a true and correct copy of excerpts of
25 the transcript of the Pretrial Conference proceedings in *Restore Robotics, LLC v. Intuitive*
26 *Surgical, Inc.*, No. 19-cv-00055 (N.D. Fla.), dated January 13, 2023.

1 10. Attached to this declaration as **Exhibit 9** is a true and correct copy of the Expert
2 Report of Dr. Russell L. Lamb dated December 2, 2022, which was previously filed on the
3 docket in this matter at Dkt. 230-04.

4 11. Attached to this declaration as **Exhibit 10** is a true and correct copy of the
5 Amended Complaint in *Coronavirus Reporter v. Apple, Inc.*, No. 21-cv-05567 (N.D. Cal.), Dkt.
6 41, dated September 6, 2021.

7 12. Attached to this declaration as **Exhibit 11** is a true and correct copy of SIS's
8 Responses to Intuitive's Second Set of Requests for Admission and Third Set of Interrogatories,
9 dated October 16, 2024.

10 I declare under the penalty of perjury under the laws of the United States that the
11 foregoing is true and correct.

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14 Dated: October 28, 2024

15 By: /s/ Paul D. Brachman
PAUL D. BRACHMAN

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FILER'S ATTESTATION

I, Kenneth A. Gallo, am the ECF User whose ID and password are being used to file this document. In compliance with Civil Local Rule 5-1(i)(3), I hereby attest that the signatory identified above has concurred in this filing.

Dated: October 28, 2024

By: /s/ Kenneth A. Gallo
Kenneth A. Gallo

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